

**FISH AND GAME COMMISSION
STATEMENT OF PROPOSED EMERGENCY
REGULATORY ACTION**

**Emergency Action to Create a New Section of Title 14, CCR
Re: Prohibition of Importation of Hunter-harvested Deer and Elk Carcasses**

I. Statement of Facts Constituting Need for Emergency Regulatory Action:

Chronic Wasting Disease (CWD) is a fatal, contagious neurological disease (transmissible spongiform encephalopathy (TSE)) that infects Rocky Mountain elk (*Cervus elaphus nelsoni*), mule deer (*Odocoileus hemionus*) and white-tailed deer (*Odocoileus virginianus*). CWD has been diagnosed in wild deer and/or elk herds in southeastern Wyoming, north-central and northeastern Colorado, western Nebraska, southwestern Wisconsin, southwestern South Dakota (one deer) and south-central New Mexico (one deer). CWD has also been found in ranched elk in six states (Colorado, Kansas, Montana, Oklahoma, Nebraska and South Dakota). Typical clinical signs include emaciation, changes in behavior, and excessive salivation (drooling).

CWD was first recognized in the 1960s as a disease syndrome of captive deer housed in wildlife research facilities in Ft. Collins, Colorado, but was not identified as a TSE until the late 1970s. CWD was later diagnosed in cervids (deer and elk) held in other wildlife research facilities in Colorado (Kremmling and Meeker) and Wyoming as well as in at least two zoological collections. In 1981 CWD was identified in free-ranging deer outside the research pens in Ft. Collins, and subsequently was identified in wild deer and elk in the vicinity of the Wyoming wildlife research facility. Since 1996, CWD has been diagnosed in privately-owned farmed elk in Colorado, Kansas, Montana, Nebraska, Oklahoma, and South Dakota. Some of the infected elk herds have been depopulated, while others are still in quarantine. Recently, many states have adopted emergency regulations prohibiting the importation of any live cervid species until epidemiology of CWD is better understood.

Although CWD was first diagnosed in captive research cervids, the original source of CWD is unknown. The transmission of CWD is thought to be from animal to animal (lateral); however, environmental contamination could also be involved. Transmission by feed is not thought to be involved as affected cervids have been fed a wide variety of feed. The disease agent for CWD has not been confirmed, but is thought to be an infectious protein called a "prion". A prion is an altered form of a normal cellular protein, that in addition to having a conformational change, has also lost its normal function and acquired the ability to convert normal protein to this altered prion form. Prions are highly stable, resisting degradation or inactivation by ultraviolet radiation, ionizing radiation, freezing temperatures, and heating at normal cooking temperatures.

Currently, there is no evidence that CWD is naturally transmissible to humans or to animals other than deer and elk. The Centers for Disease Control and Prevention (CDC) has stated that "although it is generally prudent to avoid consuming food derived from any animal with evidence of a TSE, to date, there is no evidence that CWD has been transmitted or can be transmitted to humans under natural conditions. However, there is not yet strong evidence that such transmissions could not occur. To further assess the possibility that the CWD agent might occasionally cause disease in humans, additional epidemiologic and

laboratory studies could be helpful, including molecular characterization and strain typing of the agents causing CWD in deer and elk and Creutzfeldt-Jakob Disease (CJD) in potentially exposed patients. Ongoing national surveillance for CJD and other neurological cases will remain important for continuing to assess the risk, if any, of CWD transmission to humans.”

There is a theoretical risk that CWD could be transported into California in an infected hunter-harvested carcass and due to improper disposal of infected body parts (brain, spinal cord and lymph nodes) could potentially expose our native free-ranging deer/elk to the disease. No infectivity has been detected in skeletal muscle tissue, therefore, removal of nervous and lymphatic tissue from meat should remove the prion from infected carcasses.

Every fall, thousands of Californians travel out-of-state to hunt deer and elk. Some of these hunters could harvest a deer/elk pre-clinical for CWD (e.g. early CWD infection in which the animal shows no sign of disease) in a CWD endemic area or an area with infected animals but not yet recognized as endemic for CWD. A percentage of the successful hunters will bone out the meat at the kill site, others will have the deer/elk carcass processed by a nearby meat processor, and another percentage will transport the entire carcass back into California for processing at home or by a licensed meat processor. It is the hunter processing the meat at home and through improper disposal of body parts that could expose native wildlife to the CWD disease agent.

The Fish and Game Commission (Commission) is the decision-making body that adopts deer and elk carcass importation regulations pursuant to Fish and Game Code 200 et seq. For the reasons described above, emergency regulations to restrict the transport of any hunter-harvested deer or elk carcass into California are necessary to minimize the risk of introducing CWD into California deer and elk populations.

II. Express Finding of Emergency

Pursuant to the authority vested in it by the Fish and Game Code Section 240, and for the reasons set forth above in the “Statement of Facts Constituting Need for Emergency Regulatory Action,” the Commission expressly finds that adoption of these regulations is necessary for the immediate preservation of the health of our native deer and elk populations and for general welfare. The Commission specifically finds that the adoption of these regulations will minimize the risk of the introduction of CWD into the State free-ranging cervid populations.

III. Authority and Reference Citations

Authority: Sections 200, 203, 240, and 2355, Fish and Game Code.
Reference: Sections 200, 203, 240, and 2355, Fish and Game Code.

IV. Informative Digest

The sections below describe laws relating to the importation of deer and elk carcasses, the effect of these emergency regulations, a description of related federal law, and a policy statement overview.

A. Laws Related to the Emergency Regulations

Fish and Game Code Laws:

Section 200 provides the commission the power to regulate the taking or possession of birds, mammals, etc.

Section 203 provides the commission the power to establish, change or abolish bag and possession limits

Section 2355 allows for deer to be transported into this State only when in accordance with the law of the state in which the deer was taken, and when in accordance with the law of this State and the regulations of the commission adopted pursuant thereto.

B. Effect of the Emergency Regulations

The proposed emergency regulations add Title 14 Section 712 which restricts the transport of any hunter-harvested deer and elk into California and allows only the following body parts:

- (a) boned-out meat and commercially processed cuts of meat
- (b) portions of meat with no part of the spinal column or head attached.
- (c) hides with no heads attached.
- (d) clean skull plates (no meat or tissue attached) with antlers attached.
- (e) antlers with no meat or tissue attached.
- (f) heads for taxidermy can be transported into the State only if they are submitted to taxidermist within 72 hours of entry; taxidermist shall dispose of brain, spinal cord and other discarded tissue in a landfill approved for carcass disposal.
- (g) finished taxidermy heads.
- (h) upper canine teeth (buglers, whistlers, ivories).
- (i) carcasses or parts of carcasses with the spinal column or head attached may be transported into the State only if they are submitted to a certified meat processor for processing within 72 hours of entry; certified meat processors shall not split the spinal column and shall dispose of the brain, spinal cord and other discarded portions in a landfill approved for carcass disposal.

C. Existing, Comparable Federal Regulation or Statute

None

D. Policy Statement Overview

The objective of these regulations is to minimize the risk of introducing CWD into California deer and elk populations.

V. **Specific Agency Statutory Requirements**

The Commission has complied with the special statutory requirements for its emergency regulations found at Section 240, FGC. A public hearing on these regulations was held on August 30, 2002, and the above finding that these

regulations are necessary for the immediate preservation of public health and safety and general welfare meets the requirements of Section 240.

VI. Local Mandate Determination

The Commission has determined that the proposed emergency regulations do not impose a mandate on local agencies or school districts.

VII. Fiscal Impact

The Commission has determined that the proposed emergency regulations will not result in any cost to any local agency or school district for which Government Code Sections 17500 through 17630 require reimbursement. The Commission has determined that the proposed emergency regulations will not result in the imposition upon local agencies of any other non-discretionary costs or savings. The Commission has determined that the proposed emergency regulations will not result in costs or savings in federal funding to the State. The Commission has determined that the proposed emergency regulations will not result in any costs or savings to the Commission or the Department.